

REMARKS

This amendment is responsive to the *Final* Office Action of August 21, 2008. Reconsideration and allowance of claims 3, 8, and 10-21 are requested.

The Office Action

Claims 3-8, 10-16, and 20 stand rejected under 35 U.S.C. § 102 as being anticipated by Sellers (US 5,678,562) or Mault (US 6,790,178).

Claims 18 and 19 are directed to the non-elected species.

Claims 17 and 21 were erroneously grouped by the Examiner with the non-elected species. There being no rejection on art relative to claims 17 and 21, it understood that claims 17 and 21 distinguish patentably over the references of record.

The Present Amendment Should Be Entered

The present amendment raises no issues that would require further search or consideration.

First, the applicants have placed claim 3 in independent form including the subject matter of its parent claim 4. Because a dependent claim is read as including all of the subject matter of its parent claim(s), placing a dependent form does not change its scope and raises no issues that would require further search or consideration.

Claims 5-7 have been cancelled without prejudice because amending them to depend from claim 3 might be considered as raising issues that would require further search or consideration.

Claims 8, 12, and 13 have been amended to correct minor language inconsistencies. Claim 8 has been amended to add the missing preposition "of" in line 3. It is submitted that this is a mere grammatical correction of a relatively minor grammatical point and would raise no issues that would require further search or consideration.

Second, claims 12 and 13 have been amended in line 1 to delete "or medical device" because parent claim 10 only provides proper antecedent basis for "apparatus" and not for "medical device".

Claims 17 and 21 Read On the Elected Species

The Election of Species was between: (1) a *mechanical* switch and (2) a software routine. **Claim 17** calls for a “switch”. Claim 17 does not call for a “mechanical switch”. Although a “switch” can be an electromechanical device, it can also be a computer or software routine. The Microsoft Computer Dictionary, Fifth Edition (2002), defines “switch” as:

switch *n.* ... **3.** In communications, a computer or electromechanical device that controls routing and operation of a signal path. ...

The applicant encloses a copy of the entire definition of “switch” in the attached Exhibit. It will be noted that none of the definitions specifically limit a switch to a mechanical device, and that many of the definitions are software-based. Accordingly, it is submitted that claim 17 is generic to both a mechanical switch and a software routine.

Moreover, it is submitted that **claim 21**, which depends from claim 17, is clearly directed to elected Species 2. The fact that both claim 21 directed to the elected species, as well as claims which were withdrawn as being specific to the non-elected species emphasizes that claim 17 is generic.

An early examination and allowance of claims 17 and 21 are requested.

**The Claims Distinguish Patentably
Over the References of Record**

Claim 3 calls for a medical device in which an interface is provided. The disk cartridge **26** of Sellers and the memory module **46** of Mault are not medical devices. They are merely memory chips.

Further, claim 3 calls for the memory device interface to operate in a measurement mode or a communication mode. By distinction, the memory chips **26** of Sellers and **46** of Mault merely store data, i.e., their only mode is a storage mode. The device to which they are connected can operate to load digital data into or read digital data from such memory device. While these associated pieces of equipment may have multiple modes, the memory device does not have the modes specified in claim 3.

Third, claim 3 calls for software to be digitally transmitted in the communication mode and analog signals to be transmitted in the measurement mode. The memory device **26** of Sellers and **46** of Mault is a digital device. Neither Sellers nor Mault disclose that the memory device has an analog mode in which analog signals are transmitted into the memory chip.

Accordingly, it is submitted that **claim 3** is not anticipated by Sellers or Mault.

Claim 8 calls for an apparatus having an interface that is designed such that each of analog measurement means and digital external communication devices can be connected to it. Moreover, analog measured signals from the analog measurement means are received via the interface and digital data is transferred via the same interface. By contrast, the memory device **26** of Sellers and **46** of Mault are all digital devices which only store digital data. Neither Sellers nor Mault disclose analog signals being transmitted to or from an interface in the memory device **26/46**. Accordingly, it is submitted that **claim 8 and claims 10-14 dependent therefrom** are not anticipated by Sellers or Mault.

Claim 16 calls for a medical device which receives analog data from sensors in a measurement mode and communicates digitally with a digital external device in a communication mode. The memory device **26** of Sellers and **46** of Mault is a digital device with no mode in which it receives analog signals.

Claim 16 further calls for the interface to have a means for recognizing whether the contacts are connected with the analog sensor plug or the digital device plug, and for switching the interface between the analog measurement mode and the digital communication mode. There is no disclosure in either Sellers or Mault that the memory device **26/46** has an interface which switches between an analog measurement mode and a digital communication mode. Indeed, the memory device **26/46** is not disclosed in either Sellers or Mault as having an analog mode. Further, neither Sellers nor Mault suggest that the memory device **26/46** "knows" with which apparatus it is connected, much less that it changes its own functionality based on the apparatus with which it is connected. Accordingly, it is submitted that **claim 16 and claims 17-21** are not anticipated by Sellers or Mault.

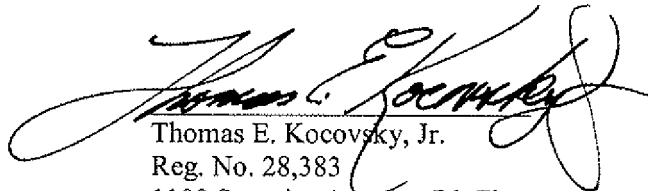
CONCLUSION

For the reasons set forth above, it is submitted that no claim is anticipated by either Sellers or Mault. An early allowance of all claims is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, the Examiner is requested to telephone Thomas Kocovsky at (216) 861-5582.

Respectfully submitted,

FAY SHARPE LLP

A handwritten signature in black ink, appearing to read "Thomas E. Kocovsky, Jr.", is written over a horizontal line.

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